31 Spanner Road
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1666

15 August 2025

CIRCULAR PUBLISHED IN THE BUSINESS RESCUE PROCEEDINGS OF

DAYBREAK FOODS (PTY) LTD (UNDER BUSINESS RESCUE)

1. We refer to:

   1.1. The meeting held with the employees committee on Wednesday, 13 August 2025;

   1.2. The letter addressed by the employees committee on 14 August 2025; and

   1.3. The employees committee held on even date.

2. The BRP addressed employees on Wednesday and advised that the Company is not in a financial position to make payment to employees of an amount equal to 50% of the salaries who are not rendering services. The BRP further advised that the employees who render services remain unaffected and will continue to be paid in full.

3. The employees committee were informed that the Company is only in a position to make payment of a stipend of R1500.00 to employees who earn less than R15,000.00 per month, whilst employees whose salaries are more than R15,000.00 will receive a minimum of 10% of their salaries.

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4. The employees committee requested the BR team to reconsider their proposals and find alternative measures to implement. The BRP advised that it would consult with the PIC in order to find possible alternatives.

5. We pause to mention that the funding provided to the Company by the PIC has specific conditions on the utilisation of the funds. More particularly, the funding was provided based on an emergency-phase budget which the BR Team presented. The BR Team is not authorised to unilaterally amend the budget in this regard.

6. In addition, it is common cause that there are pre-rescue arrear pension/provident fund payments due and owing to the fund administrators. Employees are not entitled to claim any benefit from these funds, until all the arrears have been settled.

7. The employees committee has addressed numerous correspondences to the BR Team, *inter alia*, demanding that the fund arrears be brought up to date so that employees can gain access to their benefits. This sentiment was reiterated in the letter addressed by the employees committee on 14 August 2025.

8. The BR Team sought legal opinion on the treatment of the arrears on the funds.

9. Section 13A of the Pension Funds Act ("PFA") obliges employers to pay over deductions within 7 days. Failure to do so results in penalties and criminal liability for directors.

10. In terms of section 136 of the Companies Act, a BRP may not suspend any provision of an employment contract and the terms and conditions of employment contract remain unaltered.

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11. In line with the pension fund adjudicator's decision in *YN Landman v Wilenri Appliance Service Provident Fund and others* (PFA/KZN/6286/2011/SM), the adjudicator confirmed that "*the fact that the [employer] has been placed under business rescue did not absolve it from its statutory duty to pay outstanding contributions*".

12. As such, the BRP is statutorily obliged to make payment of all arrears pension fund contributions (which have already been deducted from employee salaries and not paid over), unless there is unanimous agreement between the Company, the employees and the fund administrators.

13. Having regard to the aforesaid, the BR Team in the meeting held on even date submitted that:

    13.1.

14. We trust that you find the above in order.

ELECTRONICALLY SENT

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Tebogo Maoto
Senior Business Rescue Practitioner